

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Crosby & Overton, Inc.
1610 West 17th Street
Long Beach, CA 90813

EPA ID# CAD028409019

Respondent.

Docket HWCA 2003-0385

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Crosby & Overton, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent is a permitted onsite and offsite RCRA and non-RCRA hazardous waste storage, treatment, and transfer facility located at 1610 West 17th Street, Long Beach, CA 90813, (Site).

2. The Department conducted a Compliance Evaluation Inspection of the Site on November 4, 5, 6, 12, & 17, 2003 and an Enhanced Inspection on August 19, 2004.

3. The Department alleges the following violations:

3.1.1. Respondent violated Health and Safety Code (HSC), sections 25201(a), 25202(a), and Hazardous Waste Facility Permit (HWFP), Part 1, I.C., in that on or about November 4 & 5, 2003, Respondent treated used/waste oil that was not

authorized by Respondent's permit, and aqueous waste containing concentrations of petroleum hydrocarbons beyond those authorized by Respondent's existing permit.

3.1.2. Respondent violated HSC, sections 25201(a), 25202(a), and HWFP, Section III.B.I., in that on or about November 4 & 5, 2003, Respondent stored hazardous waste from off-site in a rental tank without authorization.

3.1.3. Respondent violated title 22, California Code of Regulations (Cal. Code Regs.), section 66264.193(c)(2)&(4), in that on or about November 5, 2003, Respondent failed to maintain the secondary containment area surrounding the tank farm, paint consolidation area, filter press, and steam cleaning area by not removing accumulated releases from hazardous waste activities within a 24 hour period or repairing cracks and gaps in the flooring material.

3.1.4. Respondent violated title 22, Cal. Code Regs., section 66264.16(a)(1) and(d)(3)&(4) and HWFP, Part B, Section IX, in that on or about November 4 & 5, 2003, Respondent failed to provide classroom hazardous waste training to a new employee and failed to record on the job training provided to same new employee, and failed to provide adequate written description of the type and amount of both introductory and continuing training given to each employee filling a position.

3.1.5. Respondent violated title 22, Cal. Code Regs., section 66262.34(f)(3) in that on or about November 4 & 5, 2003, Respondent failed to have hazardous waste labels on drums that contained hazardous waste. Labeling violations were noted during previous inspections.

3.1.6. Respondent violated title 22, Cal. Code Regs., section 66264.15(d), and Permit Application Part B, Section VIII, D, in that on or about November 4 & 5, 2003,

Respondent failed to maintain adequate inspection logs. Inspection log violations were noted in previous inspections.

3.1.7. Respondent violated title 22, Cal. Code Regs., section 66264.71(a)(2) and 66264.72(a), in that on or about November 4 & 5, 2003, Respondent failed to note significant discrepancies in the manifest by not correcting the manifest to show the type of waste the facility actually received.

3.1.8. Respondent violated title 22, Cal. Code Regs., section 66264.173(a) in that on or about November 4 & 5, 2003, Respondent failed to cover or tighten bungs on several drums of hazardous waste. Similar open container violations were observed during previous inspections

3.1.9. Respondent violated title 22, Cal. Code Regs., section 66264.176, in that on or about August 19, 2004 Respondent failed to locate containers holding ignitable waste at least 15 meters from the property line.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent does not admit the violations described above. However, Respondent agrees that it will not contest the allegations of fact alleged herein for purposes of any subsequent action brought by the Department pursuant to the

Hazardous Waste Control Law within five (5) years of the effective date of this Consent Order.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1.1. Respondent shall not treat aqueous waste containing 10% or more of oil or other hydrocarbon waste such as diesel fuel unless an authorization allowing Respondent to treat aqueous wastes with higher hydrocarbon concentrations is approved by the Department.

10.1.2. Respondent returned the unauthorized rental tank after the Department noted its presence and will not use such temporary tanks without prior authorization from the Department or as otherwise authorized by the Department.

10.1.3. Respondent cleaned the secondary containment in the paint area by removing the paint spills in the surrounding area and pumping out the sump in the secondary containment under the filter press area during the inspection. Respondent shall clean accumulated hazardous waste from the secondary containment surrounding the tank farm, paint consolidation area, filter press, and steam cleaning area within a 24 hour period when there is a hazardous waste release. Respondent repaired the cracks and gaps noted in the secondary containment and provided the Department with documentation of the repairs.

10.1.4. Respondent corrected the violation for failing to train an employee whose duties were maintenance and janitorial. Within 30 days from the effective date of this Consent Order, Respondent shall submit to the Department completed training records for employees engaged in hazardous waste handling activities. These records

shall show the type and amount of both introductory and continuing training given to the employee as required by the Part B Permit.

10.1.5. Respondent corrected the labeling violations during the inspection

10.1.6. Respondent shall add notations of when the sump and other secondary containment areas are cleaned or need to be cleaned into the inspection log.

10.1.7. Respondent shall correct manifests with wrong or missing waste codes upon discovery and will notify the generator of any changes.

10.1.8. Respondent closed the open containers and tightened the bungs during the inspection. This is a repeat violation and Respondent acknowledged the need to implement measures to prevent future violations.

10.1.9. Respondent relocated the drums of ignitable waste at least 15 meters away from the facility property line on the day of the inspection.

10.2. Submittals: The training records required by Section 10.1.4 of this Consent Order shall be sent to:

Silvia Garcia
Statewide Compliance Division, Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy

the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Respondent shall pay the Department a total penalty of \$60,000 of which \$18,500 is reimbursement of the Department's costs. The \$60,000 shall be payable in three installments of \$20,000. The first installment of \$20,000 will be due

within 90 days of the effective date of this Consent Order. The second installment of \$20,000 will be due within 180 days of the effective date of this Consent Order. The third installment of \$20,000 will be due within 270 days of the effective date of this Consent Order. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this Consent Order. Respondent shall deliver the penalty payments together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of each check shall be sent:

To: Pamela LePen
Statewide Compliance Division, Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

Ramon B. Perez
Office of Legal Counsel
Department of Toxic Substances Control
9174 Sky Park Court, Suite 150
San Diego, California 92123

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: 12/23/04

Original Signed by Michael A. Shloub

Mr. Michael A. Shloub, President
Crosby & Overton, Inc.

Dated: 01/06/05

Original Signed by Yvonne M. Sanchez

Ms. Yvonne M. Sanchez, Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control